

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff,

Vs.

No. CR 20-2126 DHU

KENDALE JOHNSON,

Defendant.

ORDER GRANTING CONTINUANCE OF TRIAL
AND PRETRIAL DEADLINES

THIS MATTER is before the Court on Defendant's Unopposed Motion to Continue January 9, 2023 Trial [37]. The Court having considered the motion, being fully advised in the premises and in light of *United States v. Toombs*, 574 F.3d 1262 (2009), finds that the Defendant has by his motion, created a sufficient record to justify granting the motion to continue. *See id.* at 1271 (requiring that the record on a motion to continue contain an explanation of why the mere occurrence of the event identified by the parties as necessitating the continuance results in the need for additional time).

IT IS THEREFORE ORDERED that Defendant's Defendant's Unopposed Motion to Continue January 9, 2023 Trial [37] is **GRANTED**.

IT IS FURTHER ORDERED that the Call of Calendar hearing of December 15, 2022 and the Jury Selection/Trial of January 9, 2023 are VACATED. Call of Calendar, Jury Selection/Trial and corresponding deadlines are reset as follows:

| Event | Date/Deadline |
|---|--|
| Trial (trailing docket) at 9:00 a.m. | March 6, 2023 |
| Calendar Call | Thursday, February 23, 2023 at 10:00 a.m. |
| Motions in Limine | Friday, February 03, 2023 |
| Response to Motions in Limine | Friday, February 10, 2023 |
| Motions to Continue | Friday, February 17, 2023 |
| Jury Instructions and Voir Dire | Friday, February 17, 2023 |
| Witness and Exhibit Lists | Monday, February 20, 2023 |
| Rule 404(b), or 609(b) Evidence | Friday, February 3, 2023 |

Before Judge David Herrera Urias at the United States Courthouse, 333 Lomas Blvd., N.W., Mimbres Courtroom, 4th Floor in Albuquerque, New Mexico.

IT IS FURTHER ORDERED that the pretrial motion deadline is hereby extended until **Friday, February 03, 2023**. The pretrial motion deadline applies to all motions, including Daubert Motions. Motions in Limine have a separate deadline.

IT IS FURTHER ORDERED that pursuant to 18 U.S.C. §3161(h)(7)(A), the Court finds that the ends of justice served by granting the unopposed motion for continuance outweigh the best interest of the public and the defendant in a speedy trial. Therefore, all the time from the filing of the motion until the beginning of jury selection in this matter shall be excluded for the purpose of the Speedy Trial Act.

IT IS FINALLY ORDERED that counsel shall adhere to the Court's instructions and case management deadlines as set forth in the following attachment, "Pretrial Deadlines before The Honorable David Herrera Urias."



UNITED STATES DISTRICT JUDGE